

Provided that if the occupier, on application made to him by the Board or the civil area committee or the Chief Executive officer at whose instance such notice has been issued, refuses to truly disclose the amount of his rent or the name or address of the person to whom it is payable, the Chief Executive officer may recover from the occupier the whole amount recoverable under section 320 in the same manner as money is recoverable by the Board under section 324.

(2) Any amount recovered from an occupier instead of from an owner under sub-section (1) shall, in the absence of any contract between the owner and the occupier to the contrary, be deemed to have been paid to the owner.

323. *Relief to Agents and Trustees.*—(1) Where any person, by reason of his receiving the rent of immovable property as an agent or trustee, or of his being as an agent or trustee the person who would receive the rent if the property were let to a tenant, would under this Act be bound to discharge any obligation imposed on the owner of the property for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has or but for his own improper act or default might have had funds in his hands belonging to the owner sufficient for the purpose.

(2) The burden of proving any fact entitling an agent or trustee to relief under sub-section (1) shall lie upon him.

(3) Where any agent or trustee has claimed and established his right to relief under this section, the Board may, by notice in writing, require him to apply to the discharge of such obligation as aforesaid the first monies which may come to his hands on behalf, or for the use, of the owner and on failure to comply with the notice, he shall be deemed to be personally liable to discharge the obligation.

324. *Method of recovery.*—(1) Notwithstanding anything elsewhere contained in this Act arrears of any tax, and any other money recoverable, including rent on land and buildings due or damages and fine due under leases or licences executed by or in favour of a Board or the Defence Estates Officer under this Act or the rules made thereunder may be recovered together with the cost of recovery either by suit or on application to a Judicial Magistrate having jurisdiction in the cantonment or in any place where the person from whom such tax, rent or money is recoverable may for the time being be residing, either by the distress and sale of movable property of such person, or by the attachment and sale of immovable property of that person, which is within the limits of the jurisdiction of such Judicial Magistrate, or by both these methods, and shall, if payable by the owner of any property as such, be a charge on the property until paid:

Provided that the tools of artisans, growing crops upto the value of five thousand rupees and implements and cattle used for the purposes of agriculture shall be exempt from such distress or sale.

(2) An application to a Judicial Magistrate under sub-section (1) shall be in writing and shall be signed by the president or Vice-President of the Board or by the Chief Executive Officer or the Defence Estate Officer or the Officer Commanding the Station or any other officer authorised by any of these officers, but shall not require to be personally presented.

(3) Upon receiving the application, the Judicial Magistrate referred to in sub-section (1) may take action for the recovery of the amount of tax, rent or money from the person specified in the application as if such amount were a fine recoverable under a sentence passed by him and the provisions of section 421 and 422 of the Code of Criminal Procedure, 1973 (2 of 1974) shall, so far as may be, apply to the recovery of such amount:

Provided that the recovery of no such amount shall be made by the arrest or detention in prison of the said person.

Committees of Arbitration

325. *Application for a Committee of Arbitration.*—In the event of any disagreement as to the liability of a Board to pay any compensation under this Act, or as to the amount of any compensation so payable, the person claiming such compensation may apply to the Board shall for the reference of the matter to a Committee of Arbitration, and the Board shall forthwith proceed to convene a Committee of Arbitration to determine the matter in dispute.

326. *Procedure for convening Committee of Arbitration.*—When a Committee of Arbitration is to be convened, the Board shall cause a public notice to be published stating the matter to be determined, and shall forthwith send copies of the order to the District Magistrate, and to the other party concerned, and shall, as soon as may be, nominate such members of the Committee as it is entitled to nominate under section 327, and by notice in writing call upon the other persons who are entitled to nominate a member or members of the Committee to nominate such member or members in accordance with provisions of that section.

327. *Constitution of the Committee of Arbitration.*—(1) Every Committee of Arbitration shall consist of five members, namely:—

(a) a Chairman who shall be a person not in the service of the Government or the Board, and who shall be nominated by the Officer Commanding the Station;

(b) two persons nominated by the Board;

(c) Two persons nominated by the other party concerned.

(2) If the Board or the other party concerned or the Officer Commanding the Station fails within seven days of the date of issue of the notice referred to

in section 326 to make any nomination which it or he is entitled to make or if any member who has been so nominated neglects or refuses to act and the Board or other person by whom such member was nominated fails to nominate another member in his place within seven days from the date on which it or he may be called upon to do so by the District Magistrate, the District Magistrate shall forthwith appoint a member or members, as the case may be, to fill the vacancy or vacancies.

328. No person to be nominated who has direct interest or whose services are not immediately available.— (1) No person who has a direct interest in the matter under reference, or whose services are not immediately available for the purposes of the Committee shall be nominated a member of the Committee of Arbitration.

(2) If, in the opinion of the District Magistrate any person who has been nominated has a direct interest in the matter under reference or is otherwise disqualified for nomination or if the services of any such person are not immediately available as aforesaid and if the Board or the other person by whom any such person was nominated fails to nominate another member within seven days from the date on which it or he may be called upon to do so by the District Magistrate, such failure shall be deemed to constitute a failure to make a nomination within the meaning of section 327.

329. Meetings and powers of Committee of Arbitration.— (1) When a Committee of Arbitration has been duly constituted, the Board shall, by notice in writing inform each of the members of the fact, and the Committee shall meet as soon as may be thereafter.

(2) The Chairman of the Committee shall fix the time and place of the meetings and shall have power to adjourn any meeting from time to time as may be necessary.

(3) The Committee shall receive and record evidence, and shall have power to administer oaths to witnesses, and on requisition in writing signed by the Chairman of the Committee, the District Magistrate shall issue the necessary processes for the attendance of witnesses and the production of documents required by the Committee and may, enforce the said processes as if they were processes for attendance or production before himself.

330. Decisions of Committee of Arbitration.—(1) The decisions of every Committee of Arbitration shall be in accordance with the majority of votes taken at a meeting at which the Chairman and at least three of the other members are present.

(2) If there is not a majority of votes in favour of any proposed decision, the opinion of the Chairman shall prevail.

(3) The decisions of a Committee of Arbitration shall be final and shall not be questioned in any court.

Prosecutions

331. *Prosecutions.*—Save as otherwise expressly provided in this act, no court shall proceed to the trial of any offence made punishable by or under this Act, other than an offence specified in Schedule IV, except on the complaint of or upon information received from the Board concerned or a person authorised by the Board by a general or special order in this behalf.

332. *Composition of offence.*—(1) The Chief Executive Officer or any person authorised by him, by general or special order in this behalf, may, either before or after the institution of the proceedings, compound an offence, made punishable by or under this Act other than an offence under Chapter XIV:

Provided that no offence shall be compoundable which is committed by failure to comply with a notice, order or requisition issued by or on behalf of the Chief Executive Officer, unless and until the same has been complied with in so far as compliance is possible.

(2) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

General Penalty Provisions

333. *General Penalty.*—Whoever, in any case in which a penalty is not expressly provided by this Act, fails to comply with any notice, order or requisition issued under any provision thereof, or otherwise contravenes any of the provisions of this Act, shall be punishable with fine which may extend to five thousand rupees, and, in the case of a continuing failure or contravention, with an additional fine which may extend to five hundred rupees for everyday after the first during which he has persisted in the failure or contravention.

334. *Offences by companies.*—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section, —

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

335. *Cancellation or suspension of licences, etc.*—Where any person to whom a licence or written permission has been granted under this Act or any agent or servant of such person commits a breach of any of the conditions thereof, or of any bye-law made under this Act for the purpose of regulating the manner or circumstances in, or the conditions subject to, which anything permitted by such licence or written permission is to be or may be done, or where the Board or the civil area committee, as the case may be, is satisfied that such licence or written permission has been secured by the holder through misrepresentation or fraud, the Board or the civil area committee, as the case may be, may, without prejudice to any other penalty which may have been incurred under this Act, by order in writing, cancel the licence or written permission or suspend it for such period as it thinks fit:

Provided that no such order shall be made unless an opportunity has been given to the holder of the licence or written permission to show cause why it should not be made.

336. *Recovery of amount payable in respect of damage to cantonment property.*—Where any person has incurred a penalty by reason of having caused any damage to the property of a Board, he shall be liable to make good such damage, and the amount payable in respect of the damage shall, in case of dispute, be determined by the Judicial Magistrate by whom the person incurring such penalty is convicted, and, on non-payment of such amount on demand, the same shall be recovered either by the distress and sale of the movable property of such person,

or by the attachment and sale of the immovable property of that person, or by both these methods and the Judicial Magistrate shall recover the amount in accordance with the provisions of sections 421 and 422 of the Code of Criminal Procedure, 1973 (2 of 1974) as if it were a fine recoverable under a sentence passed by him.

Limitation

337. *Limitation for prosecution.*—No court shall try any person for an offence made punishable by or under this Act, after the expiry of six months from the date of the commission of the offence, unless complaint in respect of the offence has been made to a Judicial Magistrate within the six months aforesaid.

Suits

338. *Protection of action of Board, etc.*—No suit or prosecution shall be entertained in any court against a Board or against the Chief Executive Officer, the Officer Commanding a Station, Defence Estates Officer, Principal Director, General Officer Commanding-in-Chief, the Command, Director General Defence Estates, or against any member of a Board, or against any officer or employee of a Board, for anything which is in good faith done or intended to be done, under this Act or any rule or bye-law made thereunder.

339. *Notice to be given of suits.*—(1) No suit shall be instituted against any Board or against any member of a Board, or against any officer or employee of a Board, in respect of any act done, or purporting to have been done, in pursuance of this Act or of any rule or bye-law made thereunder, until the expiration of two months after notice in writing has been left at the office of the Board, and, in the case of such member, officer or employee, unless notice in writing has also been delivered to him or left at his office or place of abode, and unless such notice states explicitly the cause of action, the nature of the relief sought, the amount of compensation claimed, and the name and place of abode of the intending plaintiff, and unless the plaint contains a statement that such notice has been so delivered or left.

(2) If the Board or member, officer or employee has, before the suit is instituted, tendered sufficient amounts to the plaintiff, the plaintiff shall not recover any sum in excess of the amount so tendered, and shall also pay all costs incurred by the defendant after such tender.

(3) No suit, such as is described in sub-section (1), shall, unless it is an action for the recovery of immovable property or for a declaration of title thereto, be instituted after the expiry of six months from the date on which the cause of action arises.

(4) Nothing in sub-section (1) shall be deemed to apply to a suit in which the only relief claimed is an injunction of which the object would be defeated by the giving of the notice or the postponement of the institution of the suit or proceeding.

Appeals and Revision

340. *Appeals from executive orders.*—(1) Any person aggrieved by any order described in the third column of Schedule V may appeal to the appellate authority specified in that behalf in the fourth column of the said Schedule.

(2) The Central Government may, for the purposes of expeditious disposal of the pending appeals, by notification in the Official Gazette, amend Schedule V so as to designate additional appellate authority in the forth column of the said Schedule.

(3) No such appeal shall be admitted if it is made after the expiry of the period specified in that behalf in the fifth column of the said Schedule.

(4) The period specified as aforesaid shall be computed in accordance with the provisions of the Limitation Act, 1963, (36 of 1963) with respect to the computation of periods of limitation thereunder.

341. *Petition of Appeal.*—(1) Every appeal under section 340 shall be made by petition in writing accompanied by a copy of the order appealed against.

(2) Any such petition may be presented to the authority which made the order against which the appeal is made, and that authority shall be bound to forward it to the appellate authority, and may attach thereto any report which it may desire to make by way of explanation.

342. *Suspension of Action Pending Appeal.*—On the admission of an appeal from an order, other than an order contained in a notice issued under section 144, section 183, section 238, section 273 or section 302, where the appellate authority so directs, all proceedings to enforce the order and all prosecutions for any contravention thereof shall be held in abeyance pending the decision of the appeal, and, if the order is set aside on appeal, disobedience there to shall not be deemed to be an offence.

343. *Revision.*—(1) Where an appeal from an order made by the Board has been disposed of by the District Magistrate, either party to the proceedings may, within thirty days from the date thereof, apply through the General Officer Commanding-in-Chief, the Command to the Central Government, or to such authority as the Central Government may appoint in this behalf for revision of the decision.

(2) The provisions of this Chapter with respect to appeals shall apply, as far as may be, to the applications for revision made under this section.

(3) The appellate authority shall make endeavours to dispose of the appeal made under section 340 of this Act within a period of ninety days.

344. *Finality of the Appellate Orders.*—Save as otherwise provided in section 343, every order of appellate authority shall be final.

345. *Right of appellant to be heard.*—No appeal shall be decided under this Chapter unless the appellant has been heard, or has had a reasonable opportunity of being heard in person or through a legal practitioner.

CHAPTER XVI

RULES AND BYE-LAWS

346. *Power to make rules.*—(1) The Central Government may, after previous publication, make rules to carry out the purposes and objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which, and the authority to which, application for permission to occupy land belonging to the Government in a cantonment is to be made;

(b) the authority by which such permission may be granted and the conditions to be annexed to the grant of any such permission;

(c) the allotment to a Board of a share of the rents and profits accruing from property entrusted to its management under the provisions of section 63;

(d) the appointment, promotion, transfer, tenure of office, salaries and allowances, provident funds, pensions, gratuities, leave of absence, discipline and other condition of service of employees of Boards;

(e) the circumstances in which security shall be demanded from employees of Boards and the amount and nature of such security;

(f) the keeping of accounts by Boards and the manner in which such accounts shall be audited and published;

(g) the definition of the persons by whom, and the manner in which, money may be paid out of a cantonment fund or cantonment development fund;

(h) the preparation of estimates of income and expenditure by Boards and the definition of the persons by whom, and the conditions subject to which, such estimates may be sanctioned;

(i) the regulation of the procedure of Committees of Arbitration;

(j) the prescribing of registers, statements and forms to be used and maintained by any authority for the purposes of this Act;

(k) the grant of leave to the members of the Board;

(l) the form of notices required to be sent under this Act and the manner of their service; and

(m) any other matter which is required to be, or may be prescribed.

347. *Supplemental provisions respecting rules.*—(1) A rule under section 346 may be made either generally for all cantonments or for the whole or any part of any one or more cantonments.

(2) The power to make rules under clause (c) of sub-section (2) of section 346 shall include power to give retrospective effect from a date not earlier than the date of commencement of the Cantonments Act, 2006, to the rules or any of them but no retrospective effect shall be given to any rules so as to prejudicially affect the interests of any person to whom such rule may be applicable:

Provided that where any rule has to be given retrospective operation, the reasons therefor and the effect of giving such retrospective operation shall be published along with the draft of the rules when such draft is published for eliciting public opinion under sub-section (1) of section 346.

(3) All rules made under this Act shall be published in the Official Gazette and in such other manner, if any, as the Central Government may direct and, on such publication, shall have effect as if enacted in this Act.

(4) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

348. *Power to make bye-laws.*—Subject to the provisions of this Act and of the rules made thereunder, a Board may, in addition to any bye-laws which it is empowered to make by any other provision of this Act, make bye-laws to provide for all or any of the following matters in the cantonment, namely:—

- (1) the registration of births, deaths and marriages, and the taking of a census;
- (2) the enforcement of compulsory vaccination and inoculation and levy of fees where such vaccination or inoculation is carried out at the houses of residents;
- (3) the regulation of the collection and recovery of taxes, tolls and fees under this Act and the refund of taxes;
- (4) the regulation of any description of traffic in the streets and the enforcement of measures for the reduction of noise caused thereby or the prohibition of any description of such traffic;
- (5) the manner in which vehicles standing, driven, led or propelled in the streets between sunset and sunrise shall be lighted;
- (6) the seizer and confiscation of ownerless animals straying within the limits of the cantonments and regulation and control of cattle pounds;
- (7) the prevention and extinction of fire;
- (8) the construction of scaffolding for building operations to secure the safety of the general public and of persons working thereon;
- (9) the regulation in any manner not specifically provided for in this Act of the construction alteration, maintenance, preservation, cleaning and repairs of drains, ventilation-shafts, pipes, water-closets, privies, latrines, urinals, cesspools and other drainage works;
- (10) the regulation or prohibition of the discharge into, or deposit in, drains of sewage, polluted water and other offensive or obstractive matter;
- (11) the regulation or prohibition of the stabling or herding of animals, or of any class of animals, so as to prevent danger to public health;
- (12) the proper disposal of corpses, the regulation and management of burial and burning places and other places for the disposal of corpses, and the fees chargeable for the use of such places where the same are provided or maintained by Government or at the expense of the cantonment fund;